

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

**Proposing rule making related to foster care
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 156, “Payments for Foster Care,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 237.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 237.3.

Purpose and Summary

The rules in Chapter 156 were reviewed as part of the Department’s five-year rules review. As a result, the following changes are proposed:

- Remove references to difficulty of care payments for therapeutic foster care.
- Update the rate for kinship caregiver payments.
- Update the subrule regarding clothing allowances to address an increase in the allowance and a change in when it can be issued.
- Add runaways and family visits as allowable reserve bed payment types under shelter care.
- Remove the date that coincides with Comm. 502, Instructions for the Combined Cost Report.
- Change rate-setting methodology for shelter care to reflect rates set in contract.
- Update language to use the term “department caseworker.”

Fiscal Impact

This proposed rule making removes references to difficulty of care payments for therapeutic foster care. It also updates rates for kinship caregiver payments to match the rates the Department currently has in its contract. The proposed rule making also updates the methodology for rate setting in shelter care to reflect the rates set in the contract. Since those rates are already in the Department’s contract and budget, the Department does not believe any of these amendments to have a fiscal impact beyond the amount that has already been absorbed in the Department’s budget prior to any amendments. The Department is also proposing to update the clothing allowance to match what is currently in the budget. The allowance is being increased from \$237.50 to \$500 for children through the age of 12 and \$750 for children aged 13 and older. This reflects the rates the Department has set aside in the budget, so that proposed amendment does not add any additional fiscal impact.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 31, 2023. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **156.6(4)“c”** as follows:

c. When the foster family’s responsibilities in the case permanency plan include providing transportation related to family or preplacement visits outside the community in which the foster family lives, the department ~~worker~~ caseworker may authorize an additional maintenance payment of \$1 per day. Expenses over the monthly amount may be reimbursed with prior approval by the ~~worker~~ department caseworker. Eligible expenses shall include the actual cost of the most reasonable passenger fare or gas.

ITEM 2. Rescind paragraphs **156.6(4)“d”** and **“e.”**

ITEM 3. Reletter paragraphs **156.6(4)“f”** and **“g”** as **156.6(4)“d”** and **“e.”**

ITEM 4. Amend relettered paragraphs **156.6(4)“d”** and **“e”** as follows:

d. For placements made on or after January 1, 2007, the supervisor may approve an additional maintenance payment above the basic rate in subrule 156.6(1) to meet the child’s special needs as identified by the child’s score on Form 470-4401, ~~Foster Child Behavioral Assessment~~. The ~~placement worker~~ department caseworker shall complete Form 470-4401 within 30 days of the child’s initial entry into foster care.

(1) and (2) No change.

e. All maintenance payments, including difficulty of care payments, shall be documented on Form 470-0716, ~~Foster Family Placement Contract~~.

ITEM 5. Amend subrule 156.6(6) as follows:

156.6(6) Return of overpayments. When a foster family has received payments in excess of those allowed under this chapter, the department caseworker shall ask the foster family to return the overpayment. If the foster family is returning the overpayment to the department, the department

caseworker will note the monthly amount the foster family agrees to pay in the family's case file. The amount returned shall not be less than \$50 per month.

ITEM 6. Amend paragraph **156.7(2)“a”** as follows:

a. For each eligible child living in a kinship placement, ~~the monthly payment for the child shall be \$300~~ a caregiver will receive up to \$310 (\$10 per day) as a result of a court-ordered placement.

ITEM 7. Amend subrule 156.8(1) as follows:

156.8(1) Clothing allowance.

a. When, in the judgment of the ~~worker~~ department caseworker, clothing is needed at the time the child is removed from the child's home and placed in foster care and annually thereafter as needed based on the date the child entered foster care, an allowance may be authorized, not to exceed ~~\$237.50~~ \$500 for the child through the age of 12 and \$750 for the child aged 13 and older, to purchase clothing.

~~*a.* Once during each calendar year that the child remains in foster care, the department worker may authorize another clothing allowance, not to exceed \$190 for family foster care and \$100 for all other levels when:~~

~~(1) The child needs clothing to replace lost clothing or because of growth or weight change, and~~

~~(2) The child does not have escrow funds to cover the cost.~~

b. When clothing is purchased by the foster family, the foster family shall submit receipts to the ~~worker~~ department caseworker within 30 days of purchase for auditing purposes, using Form 470-1952; ~~Foster Care Clothing Allowance.~~

ITEM 8. Amend subrule 156.8(6) as follows:

156.8(6) School fees. Payment for required school fees of a child in foster family care or supervised apartment living that exceed \$5 may be authorized by the department ~~worker~~ caseworker in an amount not to exceed \$50 per calendar year if the child does not have sufficient escrow funds to cover the cost. Required school fees shall include:

a. Fees required for participation in school or extracurricular activities; and

b. Fees related to enrolling a child in preschool when a mental health professional or an intellectual disabilities professional has recommended school attendance.

ITEM 9. Amend subparagraph **156.10(1)“a”(2)** as follows:

(2) The facility shall notify the ~~worker~~ department caseworker of each visit and its planned length prior to the visit.

ITEM 10. Amend subparagraph **156.10(1)“b”(1)** as follows:

(1) The facility shall contact the ~~worker~~ department caseworker at least 48 hours in advance of a planned hospitalization and within 24 hours after an unplanned hospitalization.

ITEM 11. Amend subparagraph **156.10(1)“c”(1)** as follows:

(1) The facility shall notify the ~~worker~~ department caseworker within 24 hours after the child runs away.

ITEM 12. Amend subparagraph **156.10(2)“c”(1)** as follows:

(1) The foster family shall notify the ~~worker~~ department caseworker within 24 hours after the child runs away.

ITEM 13. Amend subparagraph **156.10(3)“a”(1)** as follows:

(1) The facility shall contact the ~~worker~~ department caseworker at least 48 hours in advance of a planned hospitalization and within 24 hours after an unplanned hospitalization.

ITEM 14. Adopt the following new paragraphs **156.10(3)“c”** and **“d”**:

c. Family visits. Reserve bed payment shall be made for days a child is absent from the facility for family visits when the absence is in accord with the following:

(1) The visits shall be consistent with the child's case permanency plan.

(2) The facility shall notify the department caseworker of each visit and its planned length prior to the visit.

- (3) The intent of the department and the facility shall be for the child to return to the facility after the visit.
- (4) Staff from the facility shall be available to provide support to the child and family during the visit.
- (5) Payment shall be canceled and payments returned if the facility refuses to accept the child back.
- (6) If the department agrees that the return would not be in the child's best interest, payment shall be canceled effective the day after the joint decision not to return the child.
- (7) Payment shall be canceled effective the day after a decision is made by the court or parent in a voluntary placement not to return the child.
- (8) Payment shall not exceed seven consecutive days, except upon prior written approval of the service area manager. In no case shall payment exceed 14 consecutive days.
- (9) The provider shall document the use of reserve bed days in the daily log and report the number of reserve bed days claimed in the quarterly report.
 - d. Runaways.* Reserve bed payment shall be made for days a child is absent from the facility after the child has run away when the absence is in accord with the following:
 - (1) The facility shall notify the department caseworker within 24 hours after the child runs away.
 - (2) The intent of the department and the facility shall be for the child to return to the facility once the child is found.
 - (3) Payment shall be canceled and payments returned if the facility refuses to accept the child back.
 - (4) If the department agrees that the return would not be in the child's best interest, payment shall be canceled effective the day after the joint decision not to return the child.
 - (5) Payment shall be canceled effective the day after a decision is made by the court or parent in a voluntary placement not to return the child.
 - (6) Payment shall not exceed seven consecutive days, except upon prior written approval of the service area manager. In no case shall payment exceed 14 consecutive days.
 - (7) The provider shall document the use of reserve bed days in the daily log and report the number of reserve bed days claimed in the quarterly report.

ITEM 15. Amend rule 441—156.11(234) as follows:

441—156.11(234) Emergency juvenile shelter care payment. ~~Contracted juvenile shelter care facilities approved or licensed in Iowa shall be paid according to the following rate-setting methodology~~ Contracted juvenile shelter care facilities approved or licensed in Iowa shall be paid in accordance with contracted terms, not to exceed the allowable costs as permitted by Iowa Code section 232.141(8).

~~**156.11(1)** The combined service and maintenance reimbursement rate paid to a shelter care provider shall be based on the verified Form 470-5421, Combined Cost Report, submitted to the department, but shall not exceed the prevailing rate. The department shall adjust the provider's reimbursement rate to the provider's actual and allowable cost, plus the inflation factor and the \$3.99 allowance originated under the tobacco settlement fund, or to the prevailing rate, whichever is less, effective the first day of the month following the department's receipt from the fiscal consultant of the provider's verified cost for the most recently reviewed fiscal year.~~

~~**156.11(2)** Net allowable expenditures are limited to those costs that are considered reasonable, necessary, and related to the service provided to the client as set forth in Comm. 502 (7/16), Instructions for the Combined Cost Report.~~

This rule is intended to implement Iowa Code sections 234.6 and 234.39.

ITEM 16. Adopt the following **new** implementation sentence in rule **441—156.14(234,252C)**:
This rule is intended to implement Iowa Code section 234.39.

ITEM 17. Adopt the following **new** implementation sentence in rule **441—156.15(234)**:
This rule is intended to implement Iowa Code section 234.39.